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GRAY, PLANT, MOOTY, MOOTY & BENNETT, P.A.			PARSLEY, DAVID J	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/773,504	AANENSON ET AL.	
	Examiner David J. Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 January 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15, 18-22 and 24-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 25-35 is/are allowed.
- 6) Claim(s) 1-4, 6, 8-15, 18-22, 24 and 36-43 is/are rejected.
- 7) Claim(s) 5 and 7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 February 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 1-30-07 and this action is non-final. The last office action dated 4-9-07 is hereby vacated in view of the new grounds of rejection set forth below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 12-14 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,250,650 to Fima in view of U.S. Patent No. 4,799,327 to Treon in view of U.S. Patent No. 4,727,674 to Garr and further in view of U.S. Patent No. 6,393,757 to Bemann.

Referring to claim 1, Fima discloses a lure body – at 20, a jacket – see at 12 and the outer edge of 46 in figures 1-2 where in figure 2 a jacket containing the top dorsal fins is formed on top of the body – at 20, installed over and substantially covering the body made of a light transmissive material – at 44,46, and configured to visually resemble a bait attractive to a sport fish – see for example figures 1-4, the body including a housing with sidewalls made of a

generally light-transmissive material – see at the interior of 20 and – at 44 and 46, and an interior space for accommodation of display lights – at 28,40, a first light source – at 38, installed in the housing parallel to an intended direction of travel of the lure through a body of water – see for example figures 1-4, and viewable through the sidewalls of the housing, a display light source – at 40, installed in the housing aft of the first linear light source and including an aft facing light source – at 40, a fiber optic bundle – at 48, having a first end connected inside the housing next to the aft light source – at 40 as seen in figures 3-4, so as to receive light from the aft light source, and a second end extending aft out of the housing to transmit light from the aft light source – see for example figures 1-4, a battery pack – at 50, installed in the housing and connected to the light sources – see for example figures 3-4, and an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima does not disclose the first light source is a linear bank of lights. Treon does disclose the first light source – see the sidewalls of the lure in figure 1, is a linear bank of lights – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the linear bank of lights of Treon, so as to allow for the light to be made more uniform along the length of the lure. Fima further does not disclose a circular bank of display lights installed in the housing aft of the first light sources. Garr does disclose a circular bank of display lights – at 3, in the housing – at 2, aft of the first lights – at 3 as seen in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the circular bank of display lights of Garr, so as to allow for the lure to be more attractive to fish. Fima further does not disclose the jacket is removable and interchangeable.

Bomann does disclose the jacket – at 32, made of light transmissive sidewalls – see column 8 lines 49-63, that is removable and interchangeable and shaped as a bait – see figures 2-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the interchangeable jacket of Bomann, so as to allow for the user to selectively determine the color and shape of the device.

Referring to claim 2, Fima as modified by Treon, Garr and Bomann further discloses a second linear bank of lights parallel to the first bank – see for example figure 1 and column 4 lines 18-24 of Treon.

Referring to claims 3 and 12, Fima as modified by Treon, Garr and Bomann further discloses at least one flasher module – at 28-50, connected to the lights operative to flash the lights on and off for the purpose of attracting fish – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claims 4 and 13, Fima as modified by Treon, Garr and Bomann further discloses the flasher module is operative to sequentially flash lights of the light banks – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claim 6, Fima as modified by Treon, Garr and Bomann further discloses the lights are light emitting diodes – see for example column 2 lines 40-51 of Fima and columns 3-4 of Garr.

Referring to claim 14, Fima as modified by Treon, Garr and Bomann further disclose the flasher module – at 28-50, is connected to the first light – at 38, to sequentially flash the light – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima, and including a second flasher module – at the other end of 28-50, connected to the aft light – at 40,

operative to sequentially flash the aft light – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claims 24, Fima discloses a lure body – at 20, a jacket – see at 12 and/or 46 in figures 1-2, installed on and substantially covering the body made of a translucent material and configured to visually resemble a bait attractive to a sport fish – see for example figures 1-4, the body including a housing with sidewalls – at the interior of 20 and/or 44 and 46, and an interior space for accommodation of display lights – at 28,40, a first light – at 38, installed in the housing parallel to an intended direction of travel of the lure through a body of water – see for example figures 1-4, and viewable through the sidewalls of the housing, a display light – at 40, installed in the housing aft of the first linear bank of lights and including an aft facing light – at 40, a fiber optic bundle – at 48, having a first end connected inside the housing next to the aft light – at 40 as seen in figures 3-4, so as to receive light from the aft light, and a second end extending aft out of the housing to transmit light from the aft light – see for example figures 1-4, a battery pack – at 50, installed in the housing and connected to the lights – see for example figures 3-4, and an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima further discloses at least one flasher module – at 28-50, connected to the lights operative to flash the lights on and off for the purpose of attracting fish – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima does not disclose the first light is a first and second linear bank of lights. Treon does disclose the first light – see the sidewalls of the lure in figure 1, is a first and second linear bank of lights – see for example figure 1 and column 4 lines 18-24. Therefore it would have been obvious to one of ordinary skill

in the art to take the device of Fima and add the linear bank of lights of Treon, so as to allow for the light to be made more uniform along the length of the lure. Fima further does not disclose a circular bank of display light installed in the housing aft of the first lights. Garr does disclose a circular bank of display lights – at 3, in the housing – at 2, aft of the first lights – at 3 as seen in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the circular bank of display lights of Garr, so as to allow for the lure to be more attractive to fish. Fima further does not disclose the jacket is removable and interchangeable. Bomann does disclose the jacket – at 32, made of light transmissive sidewalls – see column 8 lines 49-63, that is removable and interchangeable and shaped as a bait – see figures 2-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the interchangeable jacket of Bomann, so as to allow for the user to selectively determine the color and shape of the device.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon, Garr and Bomann as applied to claim 4 above, and further in view of U.S. Patent No. 3,952,445 to Liebert. Fima as modified by Treon and Garr does not disclose a clear epoxy resin filling the interior space of the housing and encapsulating the items therein. Liebert does disclose a clear epoxy resin – at 10, filling the interior space of the housing – at 17 or 19, and encapsulating the items therein – see for example figures 3 and 5. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon, Garr and Bomann and add the clear epoxy resin device of Liebert, so as to allow for the device to be more lifelike.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon, Garr and Bomann as applied to claim 4 above, and further in view of U.S. Patent No. 4,175,348 to Ray. Fima as modified by Treon, Garr and Bomann does not disclose the on/off switch is a magnetically actuated reed switch operable through the use of a magnet held exteriorly to the housing. Ray does disclose the on/off switch is a magnetically actuated reed switch – at 30, operable through the use of a magnet – at 34,36, held exteriorly to the housing – at 32 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon, Garr and Bomann and add the reed switch of Ray, so as to allow for the device to have intermittent operation of the lights.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon, Garr and Bomann as applied to claim 4 above, and further in view of U.S. Patent No. 4,516,350 to Malphrus. Fima as modified by Treon, Garr and Bomann does not disclose the jacket is configured in the likeness of a squid. Malphrus does disclose the jacket – at 10-14, is configured in the likeness of a squid – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon, Garr and Bomann and add the jacket in the likeness of a squid of Malphrus, so as to allow for the lure to be more attractive to fish.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Treon, Garr and Bomann as applied to claim 4 above, and further in view of U.S. Patent No. 6,581,319 to West. Fima as modified by Treon, Garr and Bomann does not disclose the battery pack includes a plurality of rechargeable batteries and a recharging circuit connected to the batteries and a recharging receptacle installed in the housing sidewalls. West does disclose the

battery pack – at 26, includes a plurality of rechargeable batteries – see for example figures 1-2 and column 3 lines 48-60, and a recharging circuit connected to the batteries – see for example at 22-38 in figure 2, and a recharging receptacle installed in the housing sidewalls – see for example at 12-18 in figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Treon, Garr and Bomann and add the rechargeable batteries of West, so as to allow for the device to be reusable for a long period of time.

Claims 15 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fima in view of Garr and Bomann.

Referring to claim 15, Fima discloses a lure body – at 20, a jacket – see at 12 and 46 in figures 1-2, installed over and substantially covering the body made of a light transmissive material and configured to visually resemble a bait attractive to a sport fish – see for example figures 1-4, the body including a housing with sidewalls – at the interior of 20 or at 44 and 46 made of generally light transmissive, and an interior space for accommodation of display lights – at 28,40, a first light – at 38, installed in the housing parallel to an intended direction of travel of the lure through a body of water – see for example figures 1-4, and viewable through the sidewalls of the housing, a display light – at 40, installed in the housing aft of the first linear bank of lights and including an aft facing light – at 40, a fiber optic bundle – at 48, having a first end connected inside the housing next to the aft light – at 40 as seen in figures 3-4, so as to receive light from the aft light, and a second end extending aft out of the housing to transmit light from the aft light – see for example figures 1-4, a battery pack – at 50, installed in the housing and connected to the lights – see for example figures 3-4, and an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off

– see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23. Fima does not disclose a circular bank of display light installed in the housing aft of the first lights. Garr does disclose a circular bank of display lights – at 3, in the housing – at 2, aft of the first lights – at 3 as seen in figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the circular bank of display lights of Garr, so as to allow for the lure to be more attractive to fish. Fima as modified by Garr further discloses at least one electronic flasher module – at 28-50, connected to the lights operative to flash the lights on and off for the purpose of attracting fish – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima. Fima as modified by Garr further discloses the flasher module is operative to sequentially flash lights of the light banks – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima. Fima further does not disclose the jacket is removable and interchangeable. Bomann does disclose the jacket – at 32, made of light transmissive sidewalls – see column 8 lines 49-63, that is removable and interchangeable and shaped as a bait – see figures 2-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the interchangeable jacket of Bomann, so as to allow for the user to selectively determine the color and shape of the device.

Referring to claim 18, Fima as modified by Garr and Bomann further discloses the lights are light emitting diodes – see for example column 2 lines 40-51 of Fima and columns 3-4 of Garr.

Referring to claim 19, Fima as modified by Garr and Bomann further discloses the lights are green – see for example column 4 lines 55-62 of Garr.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr and Bomann as applied to claim 19 above, and further in view of U.S. Patent No. 3,952,445 to Liebert. Fima as modified by Garr and Bomann does not disclose a clear epoxy resin filling the interior space of the housing and encapsulating the items therein. Liebert does disclose a clear epoxy resin – at 10, filling the interior space of the housing – at 17 or 19, and encapsulating the items therein – see for example figures 3 and 5. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr and Bomann and add the clear epoxy resin device of Liebert, so as to allow for the device to be more lifelike.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr and Bomann as applied to claim 20 above, and further in view of U.S. Patent No. 4,175,348 to Ray. Fima as modified by Garr and Bomann does not disclose the on/off switch is a magnetically actuated reed switch operable through the use of a magnet held exteriorly to the housing. Ray does disclose the on/off switch is a magnetically actuated reed switch – at 30, operable through the use of a magnet – at 34,36, held exteriorly to the housing – at 32 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr and Bomann and add the reed switch of Ray, so as to allow for the device to have intermittent operation of the lights.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Garr, Bomann and Liebert as applied to claim 20 above, and further in view of U.S. Patent No. 4,516,350 to Malphrus. Fima as modified by Garr, Bomann and Liebert does not disclose the jacket is configured in the likeness of a squid. Malphrus does disclose the jacket – at 10-14, is

configured in the likeness of a squid – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by Garr, Bomann and Liebert and add the jacket in the likeness of a squid of Malphrus, so as to allow for the lure to be more attractive to fish.

Claims 36-37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fima in view of U.S. Patent No. 6,647,659 to King et al.

Referring to claim 36, Fima discloses a deep sea lure comprising, a lure body – at 10, surrounding a housing – proximate 38,44, comprised of light transmissive sidewalls and an interior space – see figures 1-4, at least one bank of multiple spaced apart individual electric display lights – at 38,40, – see figures 3-4, in the interior space viewable through the light transmissive sidewalls of the housing – see at 46 and proximate 48 in figures 3-4, a fiber optic bundle – at 48, to transmit light aft from the display lights to outside the lure – see figures 1-4. Fima does not disclose a rechargeable battery pack for the display lights installed in the housing and a leader tube, passing centrally through the body to the battery pack, that forms part of recharging circuit. King et al. discloses a rechargeable battery pack – at 21, for the display light – at 29, installed in the housing – see figure 3, and a leader tube – at 35, passing centrally through the body to the battery pack – see figure 3, that forms part of recharging circuit – see figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the rechargeable battery pack of King et al., so as to allow for the device to have a longer useful life.

Referring to claim 37, Fima as modified by King et al. further discloses an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claim 39, Fima as modified by King et al. further discloses the lights are light emitting diodes – see for example column 2 lines 40-51 of Fima.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by King et al. as applied to claim 37 above, and further in view of U.S. Patent No. 4,175,348 to Ray. Fima as modified by King et al. does not disclose the on/off switch is a magnetically actuated reed switch operable through the use of a magnet held exteriorly to the housing. Ray does disclose the on/off switch is a magnetically actuated reed switch – at 30, operable through the use of a magnet – at 34,36, held exteriorly to the housing – at 32 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima as modified by King et al. and add the reed switch of Ray, so as to allow for the device to have intermittent operation of the lights.

Claims 40-41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fima in view of U.S. Patent No. 6,393,757 to Bomann.

Referring to claim 40, Fima discloses a deep sea fishing lure comprising a lure body – at 12,46, surrounding a housing – at 26,44, comprised of light transmissive sidewalls – see figures 1-4, and an interior space – see figures 1-4, at least one bank of multiple spaced apart individual electric display lights – at 38,40, in the interior space – see figures 3-4, viewable through the light transmissive sidewalls of the housing – see proximate 44,46 in figures 3-4, a fiber optic bundle – at 48, to transmit light aft from the display lights outside the lure – see figures 3-4, and

a battery pack – at 50, for the display lights installed in the housing – see figures 3-4. Fima does not disclose a removable interchangeable jacket installed over and substantially covering the body, made of a light-transmissive material, and configured to visually resemble a bait attractive to fish. Bomann does disclose a removable interchangeable jacket – at 32, installed over and substantially covering the body – at 10-16, made of a light-transmissive material – see column 7 lines 25-60, and configured to visually resemble a bait attractive to fish – see figures 2-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Fima and add the jacket of Bomann, so as to allow for the lure body to be protected for repeated use.

Referring to claim 41, Fima as modified by Bomann further discloses an on/off switch – at 28-34, connected between the display lights and the battery pack to turn the display lights on and off – see for example figures 3-4 and column 2 lines 62-68 and column 3 lines 1-23 of Fima.

Referring to claim 39, Fima as modified by Bomann further discloses the lights are light emitting diodes – see for example column 2 lines 40-51 of Fima.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fima as modified by Bomann as applied to claim 37 above, and further in view of U.S. Patent No. 4,175,348 to Ray. Fima as modified by Bomann does not disclose the on/off switch is a magnetically actuated reed switch operable through the use of a magnet held exteriorly to the housing. Ray does disclose the on/off switch is a magnetically actuated reed switch – at 30, operable through the use of a magnet – at 34,36, held exteriorly to the housing – at 32 – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of

Fima as modified by Bomann and add the reed switch of Ray, so as to allow for the device to have intermittent operation of the lights.

Allowable Subject Matter

3. Claims 25-35 are allowed.

Claims 5 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. The Bomann reference US 6393757 discloses the removable, interchangeable jacket – at 32 as seen in figures 1-4. Further, the Fima reference US 4250650 discloses a body with light transmissive sidewalls – see at the portions at 44,46. Further, regarding claim 36 the claim language does not specifically state that a leader extends through the leader tube and therefore these arguments are moot.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DAVID PARSLEY
PRIMARY EXAMINER